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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,754	02/20/2004	Takashi Saito	402982	3719
23548	7590	10/04/2005		
LEYDIG VOIT & MAYER, LTD			EXAMINER	
700 THIRTEENTH ST. NW			LEPISTO, RYAN A	
SUITE 300				ART UNIT
WASHINGTON, DC 20005-3960				PAPER NUMBER
			2883	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/781,754	SAITO ET AL.
	Examiner Ryan Lepisto	Art Unit 2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 February 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,3,4,6,7,10 and 11 is/are rejected.
 7) Claim(s) 2,5,8,9,12 and 13 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 20 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claim 5** is objected to because of the following informalities: It seems as a part of the claim was omitted. It seems like the claim should read "...claim 1, wherein the film is annealed...". The claim has been treated as such in this action. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 3-4, 6-7 and 10-11** are rejected under 35 U.S.C. 102(b) as being anticipated by **Saito et al., "Mechanical optical switch using flexible polymeric waveguide"**, Optical Fiber Communication Conference and Exhibit, 2002. OFC 2002 17-22 Mar 2002 Page(s): 14-15 (Saito). Saito teaches an optical switch (Fig. 1) comprising a polymer film waveguide (Fig. 1c), a keep plate for holding the film (left and right supports in Fig. 1c) having a through hole (section 2) wider than the switching through hole, driving means (section 2) for separating a gap in a notch (Fig. 1b-c) (causing cleavage that will cause the notch have a bow shaped bottom since the notch is not a perfectly discontinuous slope intersection) that is extending across the switching portion located half way in the waveguide formed by forming a groove in the surface of

the film. Saito further teaches that the air gap has a width less than 1 μm between cores (section 3), the pressing member being a rectangle meaning that when the film is bent an any degree past horizontal the driver will contact the film at two point, and that optical characteristics are monitored as the switch is switched from on state to the other (see section 2 and table 1).

Allowable Subject Matter

3. **Claims 2, 5, 8-9 and 12-13** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

With regard to claims 2-3, 5, 8 and 12: These claims would be allowable over the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the latter, either alone or in combination, does not disclose nor render obvious a starting groove located above a center of the waveguide by a distance longer than half the mode field diameter of propagated light beam, annealing the film after forming the notch, alternately and repeatedly pressing the film and not pressing the film with the pressing member to fatigue the film and crushing the switching portion from the surface including the switch after forming the notch, in combination with the rest of the claimed limitations.

With regard to claims 9 and 13: These claims would be allowable over the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims because they depend from claims with allowable subject matter.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hatta et al (US 2002/0067878 A1) anticipates claims 1, 4, 6-7 and 10.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Lepisto whose telephone number is (571) 272-1946. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ryan Lepisto

Art Unit 2883

Date: 8/22/05



Frank Font

Supervisory Patent Examiner

Technology Center 2800